BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of:	)	
	)	
Leased Commercial Access	)	
	)	
Development of Competition and Diversity	)	MB Docket 07-42
Video Programming Distribution and Carriage	)	FCC 18-80
	)	
Modernization of Media Regulation Initiative	)	MB Docket 17-105

To: The Commission

Reply Comments of Charlie Stogner, StogMedia

These reply comments are being filed by Charles H. Stogner, in his role as CEO of StogMedia, one of the largest user's of commercial leased access and President of the Leased Access Programmers Association, a national trade group dedicated to promoting the use of leased commercial access in a manner intended by Congress.

NCTA in comments in the Matter of Leased Commercial Access; Modernization of Media Regulation Initiative boils it down to three major points, saying….

1. "The circumstances that caused Congress to require a leased access option for unaffiliated cable programmers no longer exist."

To this the only comment should be 'bah, humbug', but the sad reality is it's more serious than saying that will suffice.

2. "Leased access is no longer sustainable under the first amendment." Here cable operators seem to want to keep 'beating a dead horse'.

3. “The commission should vacate the never-implemented report and order of a decade ago and should modify the rules to alleviate their burden on cable operators.” Our response to this follows:

To this one can only be amazed how far cable owners have come from the early days when operators were active members of the communities where they were granted franchises. Today local cable operations, for the most part, bear no resemblance to those of the beginning when Ralph Roberts, Julian Brodsky, and David Aaron were pioneers of the cable industry at sites like Meridian, Ms. where Aaron was attributed as saying:”Our goal was to be a local company and not be considered as “foreigners” who pulled money out of the community.” In fact, this trio aired a “live TV bingo” game, a sweepstake, to attract potential subscribers. Today it’s like ‘pulling eye teeth’ for a Leased Access Programmer (LAPER) to be able to air ‘live TV’ on a cable site.

In the beginning, Congress had very clearly instructed FCC to ensure LAPers had a ‘genuine outlet’ for their programmer and, of course, in the beginning, when ‘live TV’ was originated at cable headends, every channel was essentially a ‘genuine outlet’. As time progressed and FCC’s ‘career-level’ staff looked the other way, cable failed, or perhaps rather—refused, to see that those channels which would perhaps sometime carry ‘leased access’ signals were not of the same ‘quality’ as were others and as this became digital and headends began carrying HD they have (apparently with the FCC staff ‘s consensus) ignored the intent of Congress to provide a ‘genuine channel’. We fail to find any site carrying leased access as HD. This among many other egregious acts of ignoring the intent of Congress has not only caused many ‘would-be’ LAPers to give up in despair while attempting to exercise the right to carriage under the law but has, as well, driven some active LAPers from the business.

Let’s return to NCTA’s reasoning they say the rules need to be modified to alleviate the burden on cable operators. (Perhaps here the question should be ‘what burdens’ other than those brought on themselves by their refusal to follow the basic law)

NCTA lists the following as their reasoning:

A. "The Commission Should Vacate the 2008 Report and Order" to which our association of programmers must say, "why"?. FCC never tried to follow through once the cable industry succeeded in having a U.S. District court 'stay' the new rules adopted in late 2007, with an argument, that was bogus at best.

B. "The Rules Should Only Require Responses to Bona Fide Requests". Here it may be time to once again take a serious look at this procedure requiring 'putting the cart before the horse', which in actuality is nearly impossible to perform.

C. "The Commission should Minimize Burdens by Extending the Response Time." This suggestion is as insulting as it is absurd. If only operators where to comply with the law and prepare for providing leased access carriage as they do such basic matters as obtaining licenses, permits, insurance, financial controls and other 'housekeeping' issues, they would only need to retrieve the file with leased access information and attach it electronically to submit to the requester.

D. "Application Fees and Deposits". While those of us exercising the right to carriage using leased access don't see objecting to reasonable deposits where the airtime to be used may warrant it, the idea of an 'application fee' is a blatant attempt at squeezing a few more dollars from programmers. If operators had prepared for leased access as they should, this would be a ridiculous idea.

E. "Part-Time Leased Access". As cable aggressively offers 'long-form (half or full hour shows) on their own 'local origination' channels, they eagerly accept these 'part-time' programmers. If actively promoting the availability of 'ad inserts' in network shows does not entail 'part-time' carriage, then what is a '30 second' spot?

F. "Full-Time Leased Access Rates." After carefully reviewing NCTA's comments I've been unable to determine just exactly what they seek with this one.

NCTA wants to drag up the First Amendment argument at a 'red herring' even after making a point of repeating that portion of the act that reads: "to promote competition in

the delivery of diverse sources of video programming…" yet they seemingly overlook the concern over control of vertical integration of programming (this was in early the early 80's prior to mega cable operators owning programming networks as they do today.

There are numerous instances where the FCC staff has released orders in 'petitions for relief' filed by LAPers seeking intervention for what they feel are wrongful acts by cable operators where the order flies in the face of reasoning as they rule in favor of cable. However, a couple, strongly illustrates just how egregiously the FCC staff acted in a petition re-read in my original comments in the case with Cox regarding insurance requirements, that not only delved deeply into the LAPer's content but also made insurance demands the staff upheld. Then there's the case where, when a LAPer filed a petition seeking Internet reception of their programming the staff never once mentioned 'reception' but based the order on the issue of signal delivery. In this case, although the petitioner had provided a reference to a published article telling how the operator used the Internet to receive programming for their own 'local origination' channel, but stated in their response the petitioner was the only programmer seeking such, the FCC staff determined cable was telling the truth.

IN CONCLUSION, it's hard to determine, which is the dominant factor to be considered in this FCC action. Is it the Commission's mistrust of their paid staff to 'do right'; those 'career-level 'deep state' employees who lie at will to members of Congress when occasionally queried regarding a leased access matter; or Congress for failing to ensure the bureaucracies they're to oversee and fund, are doing the job as instructed.

There is one glaringly obvious ingredient that has been missing from the Commission's handling of leased access since the beginning and that is the failure to include those who actually engage in exercising the right to leased access in discussions about how to do so. There is a multitude of topics that cry to be addressed in the company of LAPers, operators and the Commission and I pray Congress will see this need and call for such processes to take place.

The Commission should implement rules, policies, and practices that encourage the use of commercial leased access for the reasons that it was established in the first place and in the manner that Congress intended and therefore reject the arguments from the cable operators (including NCTA and ACA) that leased commercial access is a burden and no longer relevant and eliminate the roadblocks that the cable operators want to establish.

Respectfully Submitted,

Charles H. Stogner,
CEO of StogMedia
President of Leased Access Programmers Association